IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 847 of 2000

in

SPECIAL CIVIL APPLICATIONNo 4147 of 2000

with

CIVIL APPLICATION No 11298 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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JASHWANT MAGANDAS ARORA

Versus

GENERAL MANAGER

Appearance:

1. LETTERS PATENT APPEAL No. 847 of 2000

MR IS SUPEHIA for Appellant

MR KM PATEL for Respondent No. 1-2

CORAM : MR.JUSTICE J.N.BHATT
and

MR.JUSTICE D.H.WAGHELA

Date of decision: 28/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Admit. Service of notice is waived by learned advocate, Mr.K.M.Patel for the respondents and upon joint request and in view of the nature of the dispute and the importance thereof, the matter is taken up for final hearing today itself.

In this Letters Patent Appeal under clause 15 of the Letters Patent, the appellant, original-petitioner, has challenged the order of learned single Judge recorded on 1.5.2000 in Special Civil Application No.4147 of 2000, whereby, the petition came to be rejected.

A short spectrum of facts may be stated, in nutshell, at the outset. The appellant, original petitioner, was working with the Dena Bank as officer, Junior Management Scale, Grade I since 20.5.81, who came to be served with chargesheet dated 13.12.97 which was, subsequently, amended on 20.2.98 and departmental inquiry was initiated for certain lapses and allegations.

The Inquiry Officer after holding departmental inquiry, held the charges proved. The Disciplinary Authority concurred with the findings and views of the Inquiry Officer and, ultimately, recorded the order of dismissal on 30.9.98, against which departmental appeal came to be preferred which came to be dismissed on 30.12.99. Being dissatisfied by the order, the appellant challenged the same by filing writ petition, before this Court, invoking the provisions of Article 226 of the Constitution, but unsuccessfully, as the petition came to be rejected on 1.5.2000. Hence this Letters Patent Appeal under clause 15 of the Letters Patent.

We have been taken through the relevant provisions of Dena Bank Officers Employees (Discipline and Appeal) Regulations, 1976, Dena Bank Officer Employees (Conduct) Regulations 1976 and subsequent reorganisational set up of hierarchy created in 1994 under which the schedule stood amended pursuant to provisions of para 19.14 of the by-party settlement and the Chief Executive Officer of the Bank nominated the disciplinary and appellate authorities who are empowered to take disciplinary action and deal with or hear and dispose of appeals in respect of awards and working of bank's various offices, branches and also training centres, which came into operation, as

per the statement made at the Bar on 2nd August, 1994.

The learned advocate for the appellant, original petitioner mainly, emphasised on the plea that the dismissal order is illegal and unauthorised as it is not passed and recorded by the competent authority to dismiss the petitioner who is officer in pay-scale I and working at the establishment under the control of R.M. In that, it was further submitted that the petitioner was appointed by the order, dated 20.5.81, by the Deputy General Manager of the Bank, whereas, the dismissal order dated 39.9.88 was passed by the Assistant General Manger. This submission is countered by learned advocate Mr.Patel who submitted that in view of the factum of change in the powers and empowerment of officers after the reorganisation in 1994, which will be applicable to the case of the appellant, the dismissal order is fully justified and cannot be said to be illegal.

We were, also, taken through the impugned order of the learned single Judge and it was contended that that this order does not deal with the main contention upon which the whole writ petition was founded challenging the dismissal order. The order of the learned single Judge is short and it reads as under:

> "Mr.L.R.Pathan for petitioner. This is a petition filed against the order passed by the disciplinary authority on 30.9.1998, against which the petitioner had filed appeal before the appellate authority, which came to be dismissed on 30.12.98. A perusal of the record does not show any point wherein this court can entertain. Hence the petition is rejected."

After taking us through the aforesaid order of the learned single Judge, it was submitted that the point does not seem to have been dealt with or the reasons are not assigned. The main controversy in this appeal as also in the original writ petition under Article 226 about the legality of the order of dismissal passed against the original petitioner does not seem to have been examined and if yes, we do not find any supporting reasons or grounds for reaching the conclusion. The issue which is kept in focus is vital and significant and it will have far reaching ramifications. Therefore, we are of the opinion that such a vital issue and other issues that may be raised on behalf of the original-petitioner are required to be examined, appreciated and evaluated with reasons. Therefore, we deem it expedient to remit the matter to the learned

single Judge for rehearing and decide the same in accordance with law.

In the result, the matter is remanded to the learned single Judge for fresh hearing and decision in accordance with law, with a request to decide it as early as possible subject to the availability of time and other workload since an important question has been raised. It will, also, be open for the parties to request appropriately at the appripriate time to the learned single Judge for early hearing.

With the above observations and directions, this appeal is allowed to the aforesaid extent without any order as to costs.

(J.N.Bhatt, J.)

(D.H.Waghela, J.)

(vjn)